No. 17-965

In the Supreme Court of the United States

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL., PETITIONERS
v.
HAWAII, ET AL., RESPONDENTS

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE* AND BRIEF OF *AMICUS CURIAE* DAVID BOYLE IN SUPPORT OF RESPONDENTS

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MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE*

David Boyle (hereinafter, "Amicus") respectfully moves for leave to file the attached brief as *amicus curiae*. Amicus' interest in the instant case follows on his two previous "Muslim ban" amicus briefs and his desire for completeness, seeing that the issue is not resolved yet.

Petitioners have granted blanket permission to amicae/i to write briefs. As for Respondents, their counsel has not granted permission. (Amicus found that interesting, in that Respondents' counsel evokes, in service of his clients, the value of inclusiveness, i.e., not unnecessarily excluding people from the community; ideally, this value should apply to amicae/i as well! especially since they are trying to help Respondents' case.)

So, Amicus asked counsel for consent to this motion: Petitioners replied that their blanket consent also constitutes consent to a motion for leave to file; Respondents, too, consented to the motion.

I. BACKSTORY, "BRIEF BRIEFS", AND BREADTH; OR, "MARCH MUSENESS 2018"

Respondents expressed interest, Amicus may have heard, in not overtaxing the Court with too many filings, maybe even encouraging their amicae/i to consolidate their filings by having multiple people contributing to one single brief, when possible, rather than submitting many separate briefs.

However, Amicus told Respondents that his brief would be only one page long. Amicus did not think a one-page brief would take too much of the Court's

time to read; indeed, the present Motion is longer than the brief itself. Nevertheless, Respondents for some reason did not grant permission (although, again, they did consent to the instant Motion). Now the Court must read several pages instead of just one, ironically enough.

A *brief* brief should not tax the Court greatly. In fact, Amicus' experiment in brevity could serve as a reminder to others to write briefs briefly, when possible. (Amicus has written 40-page briefs when needed, in other cases; but previously in the Court's "Muslim ban" cases wrote a 2-page brief, *available at* https://is.gd/YiIIEI, and an 8-page brief *available at* https://is.gd/jykwNM.)

As for the brief's form, especially in its 17-syllable Argument: it is presumably not an offense—statutory or otherwise—to use haiku (or italicized, "*haiku*") form. After all, there is an article featuring haiku with 17-syllable summaries of what various Justices wrote in *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015): *see* Daniela Lapidous, *The SCOTUS Marriage Decision in Haiku*, McSweeney's, June 26, 2015, https://is.gd/LsNxln. Not to mention, *mirabile dictu*, the "Supreme Court Haiku" website at https://is.gd/gqtVnV, and even a "Supreme Court Haiku" Twitter account, https://is.gd/jtPMfL.

After all that, it isn't much of a stretch to submit haiku in an actual Court brief. (Especially if said poem tries to evoke pithily the threatening substrata and real-life events surrounding and adding meaning to the bare legal text of the "Muslim ban".)

Indeed, it is probably good to extend the breadth of styles submitted to the Court. Admittedly, it could get ridiculous, e.g., if an amicus or party submits everything in cartoon form, or computer code, or interpretive dance by squirrels (unless there is very good reason). But we live in a diverse world, and unless someone has prejudice against Japanese (!), or against poetry (!!), "creative" submissions to the Court may not be considered a problem. "Despise not the Muse."

II. LEAVE TO FILE; AND, "LAND OF THE FREE"

Anyway, Amicus hopes that leave to file what may be the shortest brief in the history of the Court (?) is not too large a request. ...It is not as if, say, Amicus were requesting something huge and questionable, e.g.: overturning the Second Amendment (!!!); or—speaking of prejudice against foreigners or their languages/cultural forms—denying pro-life pregnancy clinic visitors the right to see visible informational signs (about licensed/unlicensed clinic status) in their own language(s), at least at the clinic itself; or, the last-minute granting of 10 minutes of oral-argument time to an amicus to kick out the Establishment Clause slat from under Respondents' argument in the instant case. (A somewhat better idea, re the latter item mentioned, might be to allow supplemental Free Exercise Clause briefing and then allowing *the parties themselves* 5 extra minutes each of oral argument time, say.)

In sum: Amicus respectfully requests the Court "freely to exercise" its right to grant Amicus leave to

file (by granting him leave); and he humbly thanks the Court for its time and consideration.

March 30, 2018 Respectfully submitted,

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AMICUS CURIAE STATEMENT OF INTEREST

The present *amicus curiae*, David Boyle ("Amicus"),[1] has previously written the Court about the Muslim ban; so, he may now offer possibly the most succinct of supplements.

SUMMARY OF ARGUMENT

Subtext/context is of import in this case; rather as a bird's shrill tweets might give clues to its behavior.

ARGUMENT

A *haiku* ban might
not be anti-Japanese
"*per se*"; but . . . you know.

CONCLUSION

The Court should uphold the court below, insofar as reasonably possible; and Amicus humbly thanks the Court for its time and consideration.

March 29, 2018 Respectfully submitted,

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[1] No party or its counsel wrote or helped write this brief, or gave money for the brief, *see* S. Ct. R. 37. Blanket permission by Petitioners to write briefs is filed with the Court, and all parties have consented to Amicus' motion for leave to file.